

**Introduced by Senator Speier**  
**(Principal coauthor: Senator Soto)**  
(Principal coauthor: Assembly Member Torrico)

January 20, 2005

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An act to amend Sections 21175 and 21192 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 105, as introduced, Speier. Disability requirement: medical examinations.

(1) Under the Public Employees' Retirement System, if a recipient of a disability retirement allowance who is under the minimum age for voluntary retirement for services applicable to members of his or her class refuses to submit to a medical examination, the pension portions of his or her allowance may be discontinued until his or her withdrawal of the refusal, or cancelled if the refusal continues for one year.

This bill would revise that provision to make it applicable to any recipient of a disability retirement allowance who is less than 59 years of age.

(2) The Board of the Public Employees' Retirement System, or in the case of a local safety member, the governing body of the employer from whose employment the person was retired, as specified, may require any recipient of a disability retirement under the minimum age for voluntary retirement for service applicable to members of his or her class to undergo medical examination, as specified.

This bill would require a recipient of a disability retirement who is less than 59 years of age to undergo a medical examination for the purpose of reevaluating his or her disability. The bill would further require the board or governing body to cause a medical examination to

be made to determine if a recipient is physically and mentally capable of performing duties in cases in which a recipient applies for reinstatement to his or her former position or another position and meets specified criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21175 of the Government Code is  
2 amended to read:

3 21175. If any recipient of a disability retirement allowance  
4 ~~under the minimum age for voluntary retirement for service~~  
5 ~~applicable to members of his or her class who is less than 59~~  
6 ~~years of age~~ refuses to submit to medical examination, the  
7 pension portions of his or her allowance may be discontinued  
8 until his or her withdrawal of the refusal. If the refusal continues  
9 for one year his or her disability retirement allowance may be  
10 canceled.

11 SEC. 2. Section 21192 of the Government Code is amended  
12 to read:

13 21192. The board, or in case of a local safety member, other  
14 than a school safety member, the governing body of the employer  
15 from whose employment the person was retired, may require any  
16 recipient of a disability retirement allowance ~~under the minimum~~  
17 ~~age for voluntary retirement for service applicable to members of~~  
18 ~~his or her class to undergo medical examination, and upon his or~~  
19 ~~her application for reinstatement, shall cause a medical~~  
20 ~~examination to be made of the recipient who is at least six~~  
21 ~~months less than the age of compulsory retirement for service~~  
22 ~~applicable to members of the class or category in which it is~~  
23 ~~proposed to employ him or her. The board, or in case of a local~~  
24 ~~safety member, other than a school safety member, the governing~~  
25 ~~body of the employer from whose employment the person was~~  
26 ~~retired, shall also cause the examination to be made upon~~  
27 ~~application for reinstatement to the position held at retirement or~~  
28 ~~any position in the same class, of a person who was incapacitated~~  
29 ~~for performance of duty in the position at the time of a prior~~  
30 ~~reinstatement to another position who is less than 59 years of~~  
31 ~~age to undergo a medical examination for the purpose of~~

1 *reevaluating the status of his or her disability. If a recipient*  
2 *applies for reinstatement to his or her former position, a position*  
3 *in the same classification, or another position in state service,*  
4 *and is at least six months less than the compulsory age of*  
5 *retirement for service in the position for which he or she has*  
6 *applied, the board or, in the case of a local safety member other*  
7 *than a school safety member, the governing body for the*  
8 *employer from whose employment the person was retired, shall*  
9 *cause a medical examination to be made to determine whether*  
10 *the recipient is physically and mentally capable of performing*  
11 *the usual duties of that position.*

12 The examination shall be made by a physician or surgeon,  
13 appointed by the board or the governing body of the employer, at  
14 the place of residence of the recipient or other place mutually  
15 agreed upon. Upon the basis of the examination, the board or the  
16 governing body shall determine whether he or she is still  
17 incapacitated, physically or mentally, for duty in the state  
18 agency, the university, or contracting agency, where he or she  
19 was employed and in the position held by him or her when  
20 retired for disability, or in a position in the same classification,  
21 and for the duties of the position with regard to which he or she  
22 has applied for reinstatement from retirement.